

**REMARKS**

This amendment is supplemental to the amendment filed June 17, 2010, and adds a clarification of a feature to the independent claims 59, 86-89, 105 and 106. Accordingly, the remarks that follow solely address the new feature with respect to the art rejections, as this feature was not previously discussed. The application is amended to place the application in condition for allowance.

**Status of the Claims**

Independent claims 59, 86-89, 105 and 106 have been amended to clarify that the instrument and the stabilizer can be separated into distinct elements when said suction nozzles are connected to said suction source and suck tightly to tissue close to and around said passage. This feature is clearly illustrated, by Figure 32, for example, wherein the stabilizer and instrument are illustrated as separate distinct elements and suction is provided.

Claims 59-62, 65-66, and 68-117 remain pending.

**Claim Rejections-35 USC §102 and §103**

Claims 59, 60, 61, 65-73, 76, 85-92, 96, 105-110, and 113-117 were rejected under 35 USC §102(e) as being anticipated by SOBLE et al. U.S. 6,547,724 (SOBLE).

Claims 62, 74, 75, 81-84, 93, 97, 100-104, 111 and 112 were rejected under 35 USC §103(a) as being unpatentable over SOBLE.

Claims 77-79, 94 and 95 were rejected under 35 USC §103(a) as being unpatentable over SOBLE in view of ABRAMS et al. U.S. 6,740,098 (ABRAMS).

Claims 80 is rejected under 35 USC §103(a) as being unpatentable over SOBLE in view of ABRAMS, further in view of GIFFORD, III U.S. 5,95,504 ("GIFFORD").

Claims 98 and 99 were rejected under 35 USC §103(a) as being unpatentable over SOBLE in view of MOENNING U.S. 5,725,553 (MOENNING).

These rejections have been traversed for the reasons stated in the amendment filed June 17, 2010, and are further traversed for the reasons that follow with respect to the newly added feature, i.e., the instrument and the stabilizer can be separated into distinct elements when said suction nozzles are connected to said suction source and suck tightly to tissue close to and around said passage.

The Official Action finds the Figures 3a and 3B to be the most relevant concerning the claimed invention.

As discussed previously, however, in the broader teaching of SOBLE, the device consists of a flexible sleeve 10 and an elongate instrument 50. The flexible sleeve 10 is tubular (Column 4 Lines 49-50). The elongate instrument 50 is slidingly

(see title and C3 L10) received inside the flexible sleeve. In broad terms this is illustrated in Figure 1:

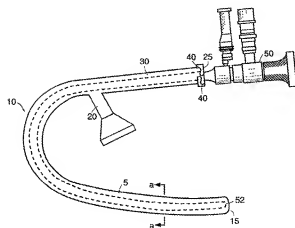


FIG. 1

Referring to C2 L13-17, the objective of SOBLE is to provide effective and efficient means for removing stones and other unwanted materials from cavities accessible by a flexible endoscope. Referring to C2 L17-21, the more general objective of SOBLE is to provide suction means that can remove large targets and is suitable for treatment of cavities in the body accessible by an endoscope.

These objectives are achieved (see C2 L25-36) by providing the sleeve with a side port between the distal and proximal end of the sleeve, the side port being connected to a vacuum source, the sleeve defining a suction channel through which the instrument extends and which is connectable to the suction source. The instrument is retractable in the proximal

direction to beyond the port so that the distal part of the suction channel/sleeve (i.e. the part extending distally from the port) is freed from the instrument.

However, negative pressure applied to the side port only results in suctioning at the proximal end of the sleeve if said distal part of the sleeve is closed by the instrument in combination with a seal 40 (see figure 1 above).

That is, SOBLE is unable to disconnect the instrument from the sleeve at the distal end, i.e., make it a separate element, without losing the negative pressure at the proximal end.

Indeed, this is also true of the embodiments of Figures 3A and 3B, where concurrent irrigation/ventilation may be provided to the treatment side in order to prevent collapse of the cavity during suction:

- figure 3A shows a sleeve 10 with three lumens. Lumen 1 is sized for insertion of the instrument, lumen 3 is the channel for concurrent irrigation/ventilation and lumen 2 is an additional working channel.
- Figure 3B shows that the lumens can also be arranged substantially co-axial, with the lumen 1 centrally located for insertion of the instrument and two outer lumens, one or both of which may be used as irrigation channel.

Thus, even if one were to consider the ducts 3 of Figure 3B as suction channels, which they are not for the reasons explained in the previously filed amendment, the instrument cannot be a separate element when the suction source is connected to the distal end while suction is applied the suction face (nozzle) formed by the axial end.

None of ABRAMS, GIFFORD and MOENNING is able to remedy this shortcoming of SOBLE for reference purposes.

Therefore, further to the reasons provided in the amendment filed June 17, 2010, the proposed combination cannot render obvious independent claims 59, 86-89, 105 and 106, and the claims depending from these claims.

### **Conclusion**

In view of the additional changes to the claims and the foregoing remarks, further to the amendment filed June 17, 2010 this application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future submissions, to charge any deficiency or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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